

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 02 2011 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

T.K. AND S.K., INDIVIDUALLY AND ON
BEHALF OF L.K.,

Plaintiffs-Appellants,

– against –

NEW YORK CITY DEPARTMENT OF
EDUCATION,

Defendant-Appellee.

ORDER

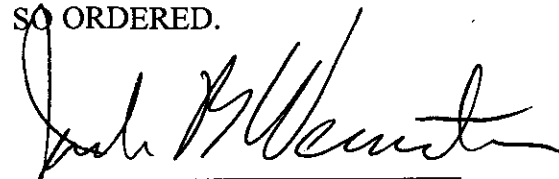
10-CV-752

JACK B. WEINSTEIN, Senior United States District Judge:

Defendant moves for certification, permitting an interlocutory appeal, *see* 29 U.S.C. § 1292 (b), and for clarification of who bears the burden of proof on remand. *See* Defendant's Letter, May 10, 2011; *T.K. v. New York City Dep't of Educ.*, 2011 WL 1579510 (E.D.N.Y. 2010) (denying defendant's motion for summary judgment and providing test for determining if bullying denied student of a free, appropriate public education under the IDEA). *See also* Plaintiff's Response, May 16, 2011.

Both motions are denied. The first would unduly delay the case. The second is best determined in the first instance by the state's administrative officers. *See also* hearing of May 24, 2011 (reasons for decision).

SO ORDERED.



Jack B. Weinstein
Senior United States District Judge

Date: May 24, 2011
Brooklyn, New York